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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,026	11/12/2003	Jon Sagrillo	CENDAN 3.0-015	6194
530 7590 08/28/2008 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER MAGUIRE, LINDSAY M				
ART UNIT 3692		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,026

Applicant(s)

SAGRILLO ET AL.

Examiner

LINDSAY M. MAGUIRE

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-42 and 60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Non-Final Office action is in response to the application filed November 12, 2003 and the response to the Restriction/Election filed on June 30, 2008.

Election/Restrictions

Claims 1-42 and 60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected groups I & II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 30, 2008.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 43-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. PGPub. No. 2003/0074211 (Lun '211), alone.

Re Claim 43: Lun '211 discloses a method for providing to a user over a computer network a forecast for a predetermined financial forecast period, comprising: providing a website system that includes a graphics user interface having a plurality of data entry fields capable of being populated by the user (abstract; paragraph [0025]); receiving in at least one of said plurality of data entry fields past personal and business

financial data from a period preceding the predetermined personal and business financial forecast period (paragraph [0014]); receiving in at least another one of said data entry fields production goal data for the predetermined forecast period (paragraph [0029]); calculating a personal and business forecast for the predetermined forecast period as a function of said past personal and business financial data and said production goal data (Abstract; paragraphs [0033-0039]); and transmitting said forecast to the user via the computer network (paragraph [0037]).

It is noted that although Lun '211 shows "Business Planning System and Method", Lun '211 is considered to be able to function as a "personal and business" forecaster as called for in the instant claims. While Lun '211 does not explicitly show the apparatus in these configurations, a reference needs only be capable of being in these configurations in order to "read on" the claim language. In this case, Lun '211 could also function as a personal financial forecaster for increased versatility of the method/system.

Re Claim 44: Lun '211 discloses the method, in *supra*, including that said step of receiving past financial data comprises receiving at least a portion of said past personal and business financial data from calculated results of an average production goal of user-provided data (paragraph [0033]).

Re Claim 45: Lun '211 discloses the method, in supra, including that said production goal comprises data taken from a group comprising: success ratios; average commission; last predetermined period's average commission percentage; percentage of sides listing sold; percentage of listing-taken sold; percentage of open sides that closed; average days to close; and average days on market (paragraphs [0032-0035]).

Re Claim 46: Lun '211 discloses the method, in supra, including that said step of receiving past financial data comprises receiving at least a portion of said financial data from a pre-calculated average (paragraph [0033]).

Re Claim 47: Lun '211 discloses the method, in supra, including that said pre-calculated average comprises an average of a plurality of user-provided data taken from a group consisting of: success ratios; average commission; last predetermined period's average commission percentage; percentage of sides listing sold; percentage of listing-taken sold; percentage of open sides that closed; average days to close; and average days on market (paragraphs [0032-0035]).

Re Claim 48: Lun '211 discloses the method, in supra, including that said past financial data comprises success ratio, commission, income and expense data from said past period preceding the predetermined forecast period (paragraph [0033]).

Re Claim 49: Lun '211 discloses the method, in supra, with the exception of explicitly requiring that said production goal data comprises a commission goal. However, Lun '211 does disclose that the production goal data comprises goals in general (abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that a goal would include a commission goal for the basic reason of wanting to include any and all goals that are important to the user.

Re Claim 50: Lun '211 discloses the method, in supra, with the exception of explicitly requiring that said forecast data comprises forecasted success ratio, income and expense data necessary to achieve said commission goal. However, Lun '211 does disclose that the data needed to achieve the users goals is given (abstract; paragraphs [0036-0039]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the forecast data would comprise success ratios, income and expense data necessary to achieve a commission goal for the basic reason of wanting to include the steps for the user to take to meet their particular goals.

Re Claim 51: Lun '211 discloses the method, in supra, including further comprising adjusting said production goal data (paragraph [0016]).

Re Claim 52: Lun '211 discloses the method, in supra, with the exception of explicitly disclosing that said step of adjusting said production goal data is a function of

adjusting data taken from a group comprising: (i) listing seasonality; and (ii) selling seasonality. However, Lun '211 discloses that adjustments can be made to the entered data in order to adjust the business plans and the financial forecast reports (paragraph [0018]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include adjustments that are a function of what the user needs for the basic reason of allowing the user to make full use of the method in determining their goals.

Re Claim 53: Lun '211 discloses the method, in supra, including that said period preceding the predetermined forecast period is at least a one year period (paragraphs [0029]).

Re Claim 54: Lun '211 discloses the method, in supra, with the exception of explicitly requiring that said past financial data comprises success ratio, commission, income and expense data from said past period preceding the predetermined forecast period, said production goal data comprising a commission goal, and said financial comprising success ratio, income and expense data, said method further comprising adjusting said commission goal. However, Lun '211 discloses ratios, past income and expense data, and adjustment means (abstract; paragraphs [0016, 0018, 0029, & 0032-0039]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include all the specific needs of the user so that the user gets the full use of the method in determining their goals.

Re Claim 55: Lun '211 discloses the method, in supra, including adjusting any one of said success ratio, income or expense data (paragraph [0018]).

Re Claim 56: Lun '211 discloses the method, in supra, including accepting any one of said success ratio, income or expense data (abstract; paragraphs [0014, 0018, 0025-0029]).

Re Claim 57: Lun '211 discloses the method, in supra, including adjusting any one of said success ratio, income or expense data, and accepting any one of said success ratio, income or expense data (paragraph [0018]).

Re Claim 58: Lun '211 discloses the method, in supra, including calculating a financial budget for the predetermined forecast period as a function of said production goal data and said accepted any one of said success ratio, income or expense data (paragraphs [0018 & 0029]).

Re Claim 59: Lun '211 discloses the method, in supra, with the exception of explicitly requiring generating a monthly worksheet for the predetermined forecast period as a function of said production goal data and said accepted any one of said success ratio, income or expense data. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a monthly

worksheet for the basic reason of allowing the user to stay on top of their goals in an easy manner.

Conclusion

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. MAGUIRE whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire
8/19/08
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